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GODADDY.COM, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ACADEMY OF MOTION PICTURE
ARTS AND SCIENCES, a California
nonprofit corporation,

Plaintiff,

v.

GODADDY.COM, INC., a Delaware
corporation; GODADDY.COM, LLC, a
Delaware limited liability company,

Defendants.

Case No. CV10-3738-ABC (CW)

Assigned to Hon. Audrey B. Collins
Courtroom 680

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF MOTION TO
RECUSE HON. AUDREY COLLINS**

Complaint Filed: November 15, 2013

Trial Date: Not Set

Date: February 3, 2014

Time: 9:00 a.m.

Dept.: To Be Determined

1 Defendant GoDaddy.com, LLC (“GoDaddy”) respectfully requests that
 2 pursuant to Rule 201 of the Federal Rules of Evidence, the Court take judicial notice
 3 of the materials set forth below in support of GoDaddy’s Motion to Recuse Hon.
 4 Audrey B. Collins:

- 5 1. United States District Court, Central District of California General Order 224
- 6 2. United States District Court, Central District of California General Order
- 7 07-02
- 8 3. United States District Court, Central District of California General Order
- 9 08-01
- 10 4. United States District Court, Central District of California General Order
- 11 08-05;
- 12 5. Stipulated Judgment, *Academy of Motion Picture Arts and Sciences v.*
- 13 *Harwood Associates*, 2:99-CV-04796;
- 14 6. Civil Docket and Complaint for Case No. 2:99-cv-04796, *Academy of Motion*
- 15 *Picture Arts and Sciences v. Harwood Associates*;
- 16 7. Civil Docket for Case No. 2:01-cv-07420, *Academy of Motion Picture Arts*
- 17 *and Sciences v. Butterfields Action, et al.*;
- 18 8. Civil Docket for Case No. 2:01-cv-07618, *Academy of Motion Picture Arts*
- 19 *and Sciences v. David Schifter, et al.*;
- 20 9. Civil Docket for Case No. 2:01-cv-09003, *Academy of Motion Picture Arts*
- 21 *and Sciences v. Michael Luft, et al.*
- 22 10. Civil Docket for Case No. 2:02-cv-00321, *Academy of Motion Picture Arts*
- 23 *and Sciences v. Karol Western Corp., et al.*;
- 24 11. Civil Docket for Case No. 2:02-cv-01093, *Academy of Motion Picture Arts*
- 25 *and Sciences v. Pipedream Products, et al.*
- 26 12. Civil Docket for Case No. 2:02-cv-01220, *Academy of Motion Picture Arts*
- 27 *and Sciences v. Billy W. Allen Inc., et al.*;
- 28 13. Civil Docket for Case No. 2:02-cv-01729, *Academy of Motion Picture Arts*

1 *and Sciences v. John Does, et al.*

2 14.Civil Docket for Case No. 2:02-cv-04527, *Academy of Motion Picture Arts*
3 *and Sciences v. Richard Eddy, et al.*;

4 15.Civil Docket for Case No. 2:02-cv-05635, *Academy of Motion Picture Arts*
5 *and Sciences v. Plastic Dress-Up Co., et al.*;

6 16.Civil Docket for Case No. 2:02-cv-06332, *Academy of Motion Picture Arts*
7 *and Sciences v. Carla M. Bates, et al.*;

8 17.Civil Docket for Case No. 2:02-cv-09626, *Academy of Motion Picture Arts*
9 *and Sciences v. DCI Productions Inc., et al.*

10 18.Civil Docket for Case No. 2:02-cv-09741, *Academy of Motion Picture Arts*
11 *and Sciences v. Black Dog &, et al.*;

12 19.Civil Docket for Case No. 2:03-cv-00937, *Academy of Motion Picture Arts*
13 *and Sciences v. B T B Events Inc., et al.*;

14 20.Civil Docket for Case No. 2:03-cv-01386, *Academy of Motion Picture Arts*
15 *and Sciences v. Albertson's Inc., et al.*;

16 21.Civil Docket for Case No. 2:03-cv-04229, *Academy of Motion Picture Arts*
17 *and Sciences v. National Broadcasting Company, et al.*;

18 22.Civil Docket for Case No. 2:04-cv-01445, *Academy of Motion Picture Arts*
19 *and Sciences v. Joseph E. Talles, et al.*;

20 23.Civil Docket and Complaint for Case No. 2:05-cv-05018, *Academy of Motion*
21 *Picture Arts and Sciences v. Rhonda Morkes, et al.*;

22 24.Civil Docket and Complaint for Case No. 2:05-cv-05018, *Academy of Motion*
23 *Picture Arts and Sciences v. Escovar, et al.*;

24 25.Civil Docket and Complaint for Case No. 2:05-cv-07918, *Academy of Motion*
25 *Picture Arts and Sciences v. Associazione Italiana Sommelier Roma, et al.*;

26 26.Civil Docket for Case No. 2:07-cv-01006, *Academy of Motion Picture Arts*
27 *and Sciences v. Universal Spheres Inc., et al.*;

28 27.Civil Docket for Case No. 2:07-cv-02846, *Academy of Motion Picture Arts*

1 *and Sciences v. Sasha Stone, et al.;*

2 28.Civil Docket for Case No. 5:07-cv-01176, *Academy of Motion Pictures Arts*
3 *and Sciences v. Frank Farden, et al.*

4 29.Civil Docket and Complaint for Case No. 2:07-cv-06008, *Academy of Motion*
5 *Pictures Arts and Sciences v. Avon Products Inc., et al.*

6 30.Declined Transfer Order Dated January 28, 2004, *Academy of Motion Picture*
7 *Arts and Sciences v. Time, Inc. Home Entertainment*, 2:03-cv-00306;

8 31.Declined Transfer Order Dated September 25, 2006, *Academy of Motion*
9 *Picture Arts and Sciences v. NCL Corporation Ltd.*, 2:06-CV-05813; and

10 32.Declined Transfer Order Dated November 6, 2003, *Academy of Motion*
11 *Picture Arts and Sciences v. Partypop.com*, 2:03-cv-07619;

12 33.Notice of Related Case Dated May 18, 2010 (Docket No. 5), *Academy of*
13 *Motion Picture Arts and Sciences v. GoDaddy.com*, 2:10-cv-03738;

14 34. Motion to Exclude Testimony of Joe Presbrey Dated April 8, 2013 (Docket
15 No. 414), *Academy of Motion Picture Arts and Sciences v. GoDaddy.com*,
16 2:10-cv-03738;

17 35.Order on Plaintiff's Motions to Exclude Testimony of Nunberg; Plaintiff's
18 Motion to Exclude Scott and Defendant's Motion to Exclude Testimony of
19 Presbrey Dated June 21, 2013 (Docket No. 492), *Academy of Motion Picture*
20 *Arts and Sciences v. GoDaddy.com*, 2:10-cv-03738;

21 36.Order Re: Hearing Set for Monday June 24, 2013 Dated June 21, 2013
22 (Docket No. 493), *Academy of Motion Picture Arts and Sciences v.*
23 *GoDaddy.com*, 2:10-cv-03738; and

24 37.Order Re: Motion for Order Clarifying June 21 and 24, 2013 Orders and
25 Resetting Dates Dated July 12, 2013 (Docket No. 504), *Academy of Motion*
26 *Picture Arts and Sciences v. GoDaddy.com*, 2:10-cv-03738.

27 **I. LEGAL STANDARD**

28 The Federal Rules of Evidence permit courts to take judicial notice of certain

facts if they are “not subject to reasonable dispute.” FED. R. EVID. 201(b). A fact is not subject to reasonable dispute if it “(1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Id.* Judicial Notice may be taken *sua sponte* or at a party’s request. *See* FED. R. EVID. 201(c). If judicial notice is at a party’s request, the court must grant the request if it is “supplied with the necessary information.” FED. R. EVID. 201(c)(2).

When a court takes judicial notice of a document, “[c]aution must . . . be taken to avoid admitting evidence . . . in contravention of the relevancy, foundation, and hearsay rules.” *Am. Prairie Const. Co. v. Hoich*, 560 F.3d 780, 797 (8th Cir. 2009). This is because “the effect of taking judicial notice under Rule 201 is to preclude a party from introducing contrary evidence and in effect, directing a verdict against him as to the fact noticed” *United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir. 1994). Thus, for a fact to be subject to judicial notice, it must be one that “only an unreasonable person would insist on disputing.” *Id.*

II. ANALYSIS

GoDaddy respectfully requests that the Court take judicial notice of 37 documents. These documents fit within two categories: (1) the General Orders adopted by the Court since 2001; and (2) filings and orders from other cases in the Central District that were pulled from the Public Access to Court Electronic Records (“PACER”) system. All of the documents meet the requirements for judicial notice.

A. The Court’s Own General Orders Are Judicially Noticeable

The Court’s own General Orders (General Order 224, 07-02, 08-01, and 08-05) are commonly known within the court’s territorial jurisdiction. *See* FED. R. EVID. 201(b)(1). Moreover, they are from a source whose “accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b)(2). Indeed, courts routinely take judicial notice of General Orders of United States district courts. *See, e.g., Sony BMG Music Entertainment v. Does 1-10*, 2007 WL 1574910, *2 (E.D. Cal. 2007)

(taking judicial notice of the General Order entered on November 17, 2004, in the United States District Court for the Western District of Texas, Austin Division). Here, GoDaddy asks that the Court take judicial notice of its own General Orders for which there can be no dispute.

B. Court Files Pulled From PACER Are Judicially Noticeable

PACER is an electronic public access service provided by the federal judiciary that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts via the Internet. *See* PACER, www.pacer.gov. Several federal district and appellate courts have taken judicial notice of court records available to the public through PACER. *See, e.g., Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002) (taking judicial notice of California Court of Appeal opinion and briefs found on PACER); *C.B. v. Sonora Sch. Dist.*, 691 F.Supp.2d 1123, 1138 (E.D. Cal. 2009) (taking judicial notice of court records available through PACER). Here, the court filings from other matters pending in the Central District were pulled from PACER, which is a source whose “accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b). Finding a document in the PACER system establishes beyond reasonable dispute that the particular document was filed in litigation before a particular court. Accordingly, the court may take judicial notice of the fact that the documents filed on PACER (1) are accurate copies of the court documents they purport to be, and (2) were filed in the course of litigation in a particular court.

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1 The Court may also take judicial notice of the claims asserted in the
2 complaints at issue. While the Court need not pass on the viability of those claims,
3 it can take judicial notice that certain claims were asserted as that information
4 cannot reasonably be questioned.

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6 Dated: January 6, 2014

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9
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CERTIFICATE OF SERVICE

Pursuant to L.R. 5-3, I hereby certify that on January 6, 2014, I electronically filed the foregoing document, **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO RECUSE HON. AUDREY COLLINS / EXHIBITS**, with the Clerk of the Court by using the CM/ECF system and that the foregoing document is being served on all counsel of record identified below via transmission of Notice of Electronic Filing generated by CM/ECF:

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